IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

WP(C).No. 27290 of 2007(W)

OS.173/2006 of PRL.MUNSIFF COURT, KOCHI
OS.120/2006 of ADDL.SUB COURT, KOCHI
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PETITIONER:

C.K.UBAID S/O. KAMMU,
CC 3/7. CHALAKKAPARAMBIL HOUSE,
KALVATHI ROAD, KOCHI.

BY ADV. SRI.C.K.ABDUL RAHIM

RESPONDENTS:
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1. **SUBAIR,S/O. HASSAN,**
   VALIYAPARAMBIL HOUSE, VI/1274,
   MATTANCHERY VILLAGE, KOCHI TALUK.

2. **M/S. SEALINE HOTELS PVT.LTD,**
   ESSAR BUILDING, NEAR NORTH OVER BRIDGE,
   ERNAKULAM, COCHIN-18
   REP. BY ITS MANAGING DIRECTOR,
   SHRI.V.H.M.RAFEEQUE.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

M.N.KRISHNAN, J

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W.P.(C) No.27290 OF 2007

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Dated this the 13th day of September 2007

JUDGMENT

This writ petition is filed to set aside the order of the District Judge, Ernakulam in T.O.P.No.319/2006 whereby he refused to transfer O.S.No.173 of 2006 pending before the Munsiff's Court, Kochi to the Addl.Sub Court, Kochi where a suit for partition, O.S.No.120 of 2006 is pending. O.S.No.173 of 2006 is filed for an injunction on the ground that the present transfer petitioner, his brother and the plaintiff therein had jointly executed some documents whereby the plaintiff in that suit is entitled to the property and so the suit for injunction is filed. The present transfer petitioner would contend that those documents are all fabricated and the property belonged to him and the first respondent herein and it is pending before the Addl.Sub Court, Kochi for trial and disposal. According to the learned counsel, the validity and correctness of the documents are the prime materials for deciding both the issues. If the matters are tried separately, there is every likelihood of conflicting views.

Therefore, in the interest of justice, it is desirable that both the suits

are tried by the same court so that time also can be saved. Therefore, I direct the Prl. Munsiff's Court, Kochi to transfer O.S.No.173 of 2006 to the Addl.Sub Court, Kochi for trial and disposal along with O.S.No.120/2006. Since the case is disposed of at the admission stage itself, all the parties may be given notice regarding transfer.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-